

AMENDED IN ASSEMBLY JANUARY 4, 2006

AMENDED IN ASSEMBLY MARCH 9, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

## ASSEMBLY BILL

**No. 44**

**Introduced by Assembly Member Cohn**

December 6, 2004

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An act to amend Sections 130005, 130050, and 130063 of, to add Section 130064 to, to add Section 129771 of, and to repeal Section 130020 of, the Health and Safety Code, relating to health facilities. Section 591.5 of the Penal Code, relating to crime.

### LEGISLATIVE COUNSEL'S DIGEST

AB 44, as amended, Cohn. ~~Health facilities. Crime.~~

*Existing law provides that any person who unlawfully and maliciously damages any wireless communication device with the intent to prevent the use of the device to summon assistance or to notify law enforcement of a crime is punishable by a fine not exceeding \$500, by imprisonment in a county jail for a period not exceeding one year, or by both that fine and imprisonment.*

*This bill would provide that these provisions are also violated when one obstructs the use of such equipments, and that this crime is also punishable by imprisonment in the state prison for 16 months, or 2 or 3 years.*

*By expanding the definition of, and increasing the punishment for a crime, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~The Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 requires the Office of Statewide Health Planning and Development to assume duties relating to construction and alteration of hospital buildings, including, but not limited to, review and approval of construction plans, in order to ensure that the buildings are reasonably capable of providing services after a disaster. After January 1, 2008, the act requires any general acute care hospital building that is determined to be a potential risk of collapse or pose significant loss of life to only be used for nonacute care hospital purposes. The act authorizes the office to grant a delay in this deadline.~~

~~By December 31, 1999, existing law required owners of all general acute care hospitals to prepare a plan and compliance schedule for each building under the office's jurisdiction, indicating the steps the hospital intends to take to bring its buildings into substantial compliance with the regulations and standards developed by the office pursuant to the act, and to present that plan and compliance schedule to the office for its review and approval. Existing law authorizes the office to grant an owner of a general acute care hospital a one-year allowance from that requirement if the hospital demonstrates a need for more time to prepare plans and compliance schedules for its buildings.~~

~~This bill would repeal those provisions and would instead require the hospital owner to submit to the office, six months prior to the January 1, 2008, or six months prior to the compliance deadline if an extension has been granted, a written plan for the disposition of each pre-1973 hospital building, specifying its replacement, removal from acute care services, or retrofit.~~

~~The bill would authorize a hospital owner to request a delay of up to one year for meeting the Structural Performance Category-2 (SPC-2) or Non-Structural Performance Category-3 (NPC-3) compliance deadlines for a general acute care hospital building if construction delays have occurred that are beyond the hospital owner's control. The bill would prohibit more than two compliance delays from being granted. The bill would require a committee of the Hospital Building Safety Board to review requests for delays in compliance and would authorize the committee to approve those requests under certain circumstances.~~

~~This bill would authorize a hospital governing authority to retain an independent plan reviewer (IPR) to review its plan for projects over \$50,000,000, and would authorize the office to grant the request of a hospital governing authority to retain an IPR for any project that is at least \$20,000,000, but that does not exceed \$50,000,000, if it determines that undue delay may otherwise occur. The bill would establish plan review criteria and would authorize the adoption of related emergency regulations, including, but not limited to, regulations establishing IPR qualifications and certification standards.~~

~~Prior to a hospital owner selling or leasing the hospital to another party, existing law requires a complete nonstructural evaluation and list of nonstructural deficiencies to be submitted to the office.~~

~~This bill would repeal that requirement.~~

~~The bill would delete various obsolete provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 591.5 of the Penal Code is amended to  
2     read:  
3     591.5. A person who unlawfully and maliciously removes,  
4     injures, destroys, ~~or~~ damages, *or obstructs the use of* any wireless  
5     communication device with the intent to prevent the use of the  
6     device to summon assistance or notify law enforcement or any  
7     public safety agency of a crime is guilty of a ~~misdemeanor~~ *public*  
8     *offense punishable by a fine not exceeding five hundred dollars*  
9     *(\$500), imprisonment in a county jail for a period not exceeding*  
10    *one year, imprisonment in the state prison for 16 months, or two*  
11    *or three years, or by both that fine and imprisonment.*  
12    SEC. 2. *No reimbursement is required by this act pursuant to*  
13    *Section 6 of Article XIII B of the California Constitution because*  
14    *the only costs that may be incurred by a local agency or school*  
15    *district will be incurred because this act creates a new crime or*  
16    *infraction, eliminates a crime or infraction, or changes the*  
17    *penalty for a crime or infraction, within the meaning of Section*  
18    *17556 of the Government Code, or changes the definition of a*  
19    *crime within the meaning of Section 6 of Article XIII B of the*  
20    *California Constitution.*

1     ~~SECTION 1. Section 129771 is added to the Health and~~  
2     ~~Safety Code, to read:~~

3     ~~129771. (a) (1) The hospital governing authority may retain~~  
4     ~~an independent plan reviewer (IPR), approved by the office, to~~  
5     ~~review its plan prior to submission to the office for any project~~  
6     ~~over fifty million dollars (\$50,000,000) in construction costs. If~~  
7     ~~the office determines that undue delay may otherwise occur, it~~  
8     ~~may approve the request of a hospital governing authority to~~  
9     ~~retain an IPR for any project of at least twenty million dollars~~  
10    ~~(\$20,000,000), but that does not exceed fifty million dollars~~  
11    ~~(\$50,000,000).~~

12    ~~(2) (A) The IPR shall perform a plan review of the project.~~  
13    ~~Written plan review comments shall be provided to the hospital~~  
14    ~~governing authority. The hospital governing authority or its~~  
15    ~~designee shall respond to the IPR comments in writing.~~

16    ~~(B) The IPR shall provide the office with copies of the plans~~  
17    ~~with the plan review comments at the same time they are~~  
18    ~~provided to the hospital governing authority or its designee.~~

19    ~~(C) The hospital governing authority shall provide the office~~  
20    ~~with copies of the plans with response to plan review comments~~  
21    ~~at the same time they are provided to the IPR.~~

22    ~~(D) The office may review and comment on the plan review~~  
23    ~~comments made by the IPR and on the hospital governing~~  
24    ~~authority's response.~~

25    ~~(E) When the IPR determines that the hospital governing~~  
26    ~~authority's plans are complete and comply with all applicable~~  
27    ~~California Building Standards Code requirements, the IPR shall~~  
28    ~~issue a certification and the hospital governing authority shall~~  
29    ~~submit the application and the certified plans to the office for~~  
30    ~~review.~~

31    ~~(3) (A) The office shall work to perform a review of the~~  
32    ~~certified plans and supporting design data within 90 days of~~  
33    ~~submission. In all cases, the hospital owner and the office may~~  
34    ~~negotiate a mutually agreeable timeframe for completion of the~~  
35    ~~review.~~

36    ~~(B) If the office identifies any noncompliance with structural,~~  
37    ~~nonstructural bracing, or fire and life safety requirements of the~~  
38    ~~California Building Standards Code or other noncompliance that~~  
39    ~~impact structural, nonstructural bracing, or fire and life safety~~  
40    ~~conditions, the office shall return the plans to the hospital~~

governing authority for correction. If the hospital governing authority resubmits the corrected plans to the office within six months from the date the office returned the plans to the hospital governing authority for correction, the office shall review the corrected plans within 60 days. In all cases, the hospital owner and the office may negotiate a mutually agreeable timeframe. If the hospital governing authority resubmits the corrected plans to the office after six months, the office shall treat the corrected plans as a new application.

(C) If the office does not identify any noncompliance with the IPR's certified submission or resubmission, the office shall issue a plan approval.

(D) If the office identifies any noncompliance with any code requirements other than structural, nonstructural bracing, or fire and life safety requirements and that do not impact the structural, nonstructural bracing, or fire and life safety conditions, the office shall inform the hospital governing authority, issue a plan approval, and, during construction, the hospital governing authority shall remedy the noncompliance and the office shall verify that the noncompliances were corrected. The office shall not permit occupancy or use of space if any noncompliance is not remedied.

(E) The office may audit the review procedures and results of the IPR plan reviews. If the audit uncovers a plan review error or use of unlicensed or unqualified personnel, the office may terminate its approval of the IPR at any time during or after the review process.

(F) Prior to retaining an IPR, the hospital governing authority shall notify the office of the scope of its project and the scope of the IPR review, the name of the IPR, and the names and qualifications of the IPR staff.

(b) The office shall establish criteria for approving any person, corporation, legal entity, or local governmental entity, qualified to provide architectural, structural, mechanical, electrical, fire, and life-safety plan review of a hospital project, as an IPR under this section.

(c) The office shall develop within 90 days after the effective date of the act that added this section, regulations to establish the following:

~~(1) IPR qualifications and certification process pursuant to subdivision (b).~~

~~(2) IPR plan approval process pursuant to paragraph (2) of subdivision (a).~~

~~(d) All regulatory submissions to the California Building Standards Commission made by the office pursuant to this section shall, when adopted, be deemed to be emergency regulations and shall be adopted as emergency regulations.~~

~~SEC. 2. Section 130005 of the Health and Safety Code is amended to read:~~

~~130005. By June 30, 1996:~~

~~(a) The Office of Statewide Health Planning and Development, hereinafter called the office, shall develop definitions of earthquake performance categories for earthquake ground motions for both new and existing hospitals that are:~~

~~(1) Reasonably capable of providing services to the public after a disaster, designed and constructed to resist, insofar as practical, the forces generated by earthquakes, gravity, and winds, and in full compliance with the regulations and standards developed by the office pursuant to the Alfred E. Alquist Hospital Facilities Seismic Safety Act.~~

~~(2) In substantial compliance with the pre-1973 California Building Standards Codes, but not in substantial compliance with the regulations and standards developed by the office pursuant to the Alfred E. Alquist Hospital Facilities Seismic Safety Act. These buildings may not be repairable or functional but will not significantly jeopardize life.~~

~~(3) Potentially at significant risk of collapse and that represent a danger to the public.~~

~~(b) The office may define other earthquake performance categories as it deems necessary to meet the intent of this article and the Alfred E. Alquist Hospital Facilities Seismic Safety Act.~~

~~(c) Earthquake performance categories shall also include subgradations for risk to life, structural soundness, building contents, and nonstructural systems that are critical to providing basic services to hospital inpatients and the public after a disaster.~~

~~(d) Earthquake performance categories shall, as far as practicable, use language consistent with definitions and concepts as developed in the model codes and other state and~~

1 federal agencies. Where the office finds that deviations from  
2 other's definitions and concepts are necessary and warranted to  
3 comply with the intent of the Alfred E. Alquist Hospital Facilities  
4 Seismic Safety Act, the act that added this article, or the specific  
5 nature or functions of hospitals, the office shall provide  
6 supporting documentation that justifies these differences.

7 (e) Insofar as practicable, the office shall define rapid seismic  
8 evaluation procedures that will allow owners to determine with  
9 reasonable certainty the existing applicable earthquake  
10 performance categories and the minimum acceptable earthquake  
11 performance categories for hospital buildings. These procedures  
12 shall allow for abbreviated analysis when known vulnerability is  
13 clear and when construction in accordance with post-1973 codes  
14 allows for an evaluation focusing on limited structural and  
15 nonstructural elements.

16 (f) The office, in consultation with the Hospital Building  
17 Safety Board, shall develop regulations to identify the most  
18 critical nonstructural systems and to prioritize the timeframes for  
19 upgrading those systems that represent the greatest risk of failure  
20 during an earthquake.

21 (g) The office shall develop regulations as they apply to the  
22 administration of seismic standards for retrofit designs,  
23 construction, and field reviews for the purposes of this article.

24 (h) The office shall develop regulations for the purpose of  
25 reviewing requests and granting delays to hospitals  
26 demonstrating a need for more time to comply with Section  
27 130060.

28 (i) "Hospital building," as used in Article 8 and Article 9 of  
29 this chapter means a hospital building as defined in Section  
30 129725 and that is also licensed pursuant to subdivision (a) of  
31 Section 1250, but does not include these buildings if the beds  
32 licensed pursuant to subdivision (a) of Section 1250, as of  
33 January 1, 1995, comprise 10 percent or less of the total licensed  
34 beds of the total physical plant, and does not include facilities  
35 owned or operated, or both, by the Department of Corrections.

36 SEC. 3. Section 130020 of the Health and Safety Code is  
37 repealed.

38 SEC. 4. Section 130050 of the Health and Safety Code is  
39 amended to read:

1     ~~130050. (a) By December 31, 1999, owners of all general~~  
2 ~~acute care hospitals shall:~~

3     ~~(1) Conduct seismic evaluations in accordance with~~  
4 ~~procedures developed by the office pursuant to subdivision (e) of~~  
5 ~~Section 130005 and submit evaluations to the office for its~~  
6 ~~review and approval.~~

7     ~~(2) Identify the most critical nonstructural systems that~~  
8 ~~represent the greatest risk of failure during an earthquake and~~  
9 ~~submit the timetables for upgrading those systems pursuant to~~  
10 ~~subdivision (f) of Section 130005 to the office for its review and~~  
11 ~~approval.~~

12     ~~(3) With respect to the nonstructural performance evaluation~~  
13 ~~required by this subdivision, the evaluation need not exceed~~  
14 ~~those required by the nonstructural performance category the~~  
15 ~~hospital owner has elected. Additional evaluations shall be~~  
16 ~~obtained if the hospital owner elects to obtain a higher~~  
17 ~~nonstructural performance category at a future date. A hospital~~  
18 ~~owner shall report to the office all deficiencies that are pertinent~~  
19 ~~to the nonstructural performance category the hospital owner has~~  
20 ~~elected to attain.~~

21     ~~(b) One year prior to the January 1, 2008 compliance deadline~~  
22 ~~or the deadline approved by the office if an extension has been~~  
23 ~~granted pursuant to Section 130060, the hospital owner shall~~  
24 ~~submit to the office written plan for the disposition of each~~  
25 ~~pre-1973 hospital building, specifying its replacement, removal~~  
26 ~~from acute care services, or retrofit.~~

27     ~~SEC. 5. Section 130063 of the Health and Safety Code is~~  
28 ~~amended to read:~~

29     ~~130063. (a) With regard to a general acute care hospital~~  
30 ~~building located in Seismic Zone 3 as indicated in the 1995~~  
31 ~~edition of the California Building Standards Code, any hospital~~  
32 ~~may request an exemption from Non-Structural Performance~~  
33 ~~Category-3 requirements in Title 24 of the California Code of~~  
34 ~~Regulations if the hospital building complies with the year 2002~~  
35 ~~nonstructural requirements.~~

36     ~~(b) The office shall determine the maximum allowable level of~~  
37 ~~earthquake ground shaking potential for purposes of this section.~~

38     ~~(c) To qualify for an exemption under this section, a hospital~~  
39 ~~shall provide a site-specific engineering geologic report that~~  
40 ~~demonstrates an earthquake ground shaking potential below the~~



1 maximum allowable level of earthquake ground shaking potential  
2 determined by the office pursuant to subdivision (b).

3 ~~(d) (1) To demonstrate an earthquake ground shaking~~  
4 ~~potential as provided in subdivision (c), a hospital shall submit a~~  
5 ~~site-specific engineering geologic report to the office.~~

6 ~~(2) The office shall forward the report received from a hospital~~  
7 ~~to the Division of Mines and Geology in the Department of~~  
8 ~~Conservation for purposes of a review.~~

9 ~~(3) If, after review of the analysis, the Division of Mines and~~  
10 ~~Geology concurs with the findings of the report, it shall return~~  
11 ~~the report with a statement of concurrence to the office. Upon the~~  
12 ~~receipt of the statement, if the ground shaking potential is below~~  
13 ~~that established pursuant to subdivision (b), the office shall grant~~  
14 ~~the exemption requested.~~

15 ~~(e) A hospital building that is eligible for an exemption under~~  
16 ~~this section shall meet the January 1, 2030, nonstructural~~  
17 ~~requirement deadline if the building is to be used for general~~  
18 ~~acute care inpatient services after January 1, 2030.~~

19 ~~(f) A hospital requesting an exemption pursuant to this section~~  
20 ~~shall pay the actual expenses incurred by the office and the~~  
21 ~~Division of Mines and Geology.~~

22 ~~SEC. 6. Section 130064 is added to the Health and Safety~~  
23 ~~Code, to read:~~

24 ~~130064. (a) A hospital owner may request a delay of up to~~  
25 ~~one year for meeting the Structural Performance Category-2~~  
26 ~~(SPC-2) or Non-Structural Performance Category-3 (NPC-3)~~  
27 ~~compliance deadlines for a general acute care hospital building if~~  
28 ~~construction delays have occurred that are beyond the hospital~~  
29 ~~owner's control. No more than two compliance delays shall be~~  
30 ~~granted for a hospital building and total compliance delays shall~~  
31 ~~not exceed 24 months.~~

32 ~~(b) A committee of the Hospital Building Safety Board shall~~  
33 ~~review requests for delays in compliance and may approve a~~  
34 ~~request for a delay in compliance if all of the following~~  
35 ~~conditions are met:~~

36 ~~(1) A written request for a delay has been submitted to the~~  
37 ~~office six months prior to January 1, 2008, or six months prior to~~  
38 ~~the approved compliance deadline if an extension has been~~  
39 ~~granted pursuant to Section 130060.~~

1     ~~(2) The office has approved all plans of the acute care hospital~~  
2     ~~necessary for SPC-2 and NPC-3 compliance and all construction~~  
3     ~~permits have been issued prior to the request for delay in~~  
4     ~~compliance.~~

5     ~~(3) The hospital owner has made a good faith effort to~~  
6     ~~complete construction by the compliance deadlines without~~  
7     ~~delays.~~

O